

Serial No. 10/707,019

Amendments to the Drawings:

The attached sheets of drawings include changes to FIGS. 2 and 5. These sheets replace the original sheets including FIGS. 2-5. In FIG. 2, a second position of the lever arm 24 has been added and reference numerals 21 and 23 have been added to indicate first and second positions of the lever arm 24. In FIG. 5, the moment arms MA_1 and MA_2 have been added to indicate a cable moment arm created by the cable securing assembly and the pivot axis and an actuation moment arm created by the actuation tab and the pivot axis. FIG. 4a has been added to show an enlarged view of an adjustment follower of the adjustment assembly.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS

Reconsideration of this application as amended is respectfully requested.

The drawings were objected to by Examiner. The drawings have been amended to overcome the objections of Examiner. No new matter has been added. In FIG. 2, a second position of the lever arm 24 has been added and reference numerals 21 and 23 have been added to indicate first and second positions of the lever arm 24. In FIG. 5, the moment arms MA₁ and MA₂ have been added to indicate a cable moment arm created by the cable securing assembly and the pivot axis and an actuation moment arm created by the actuation tab and the pivot axis. FIG. 4a has been added to show an enlarged view of an adjustment follower of the adjustment assembly having threadform 79.

The specification has been amended to accommodate the changes to the drawings. No new matter has been added.

Claims 2, 6, 7, 10, 11, 14, 15, 21, 25 and 26 were rejected under 35 U.S.C. 112 as being indefinite because the term "substantially" is unclear, rendering the claim indefinite. The term "substantially" is used to accommodate minor variations. For example in claims 2, 6, 10, 14, 21 and 25, the term "substantially" is used to accommodate minor variations in the rigidity of the first suspension setting and does not render the claim indefinite. In *Andrew Corp v. Gabriel Electronics, Inc.*, 847 F.2d 819, 821-22 (Fed. Cir. 1988), the court stated that usages such as "substantially equal" and "closely approximate" may serve to describe the invention with precision appropriate to the technology and without intruding on the prior art. The court again explained in *Ecolab, Inc. v. Envirochem, Inc.*, 264 F.3d 1358, 1367 (Fed. Cir. 2001) that "like the term 'about,' the term 'substantially' is a descriptive term commonly used in patent claims to 'avoid a strict numerical boundary to the specified parameter,'" quoting *Pall Corp. v. Micron Separations, Inc.*, 66 F.3d 1211, 1217 (Fed. Cir. 1995). Accordingly, the 112 rejection of the claims should be withdrawn.

Claims 1-6, 11-22 and 26 were rejected under 35 U.S.C. 102(b) as being anticipated by Yamane (US Patent No. 6,155,132). The present invention describes an actuator assembly including a lever arm operable between a first position and a second position where the second position may be adjusted independently of the first position. As described in the claim, each of the first and second positions correspond to first and second suspension settings. For example, the first position may correspond to a locked or substantially rigid suspension setting, whereas the second position may correspond to an unlocked suspension setting, where the rider may select, through adjustment, the desired firmness of the unlocked suspension setting. Further, in the above example, the rider may adjust the firmness of the unlocked suspension setting *without altering* the locked suspension setting corresponding to the first position of the lever arm.

In Yamane, levers 23, 25 are positionable to merely *select* between three predetermined gear shift positions. These gear shift positions are precisely fixed in predetermined lever positions to ensure precise shifting. None of the three gear shift positions are *adjustable*. The rider may merely select to position the levers in one of the fixed gear shift positions. In other words, no mechanism is disclosed for varying any lever position corresponding to any one of the fixed gear shift positions. Indeed, adding an adjustment feature according to the present invention to Yamane would disable the precise shifting alignment, causing miss-shifts and preventing the rider from changing gears. Accordingly, Yamane fails to disclose a suspension adjustment actuator apparatus including an actuator assembly movable between first and second positions wherein a second suspension setting corresponding to the second position is *adjustable* independently or without affecting a first suspension setting corresponding to the first position as claimed in independent claims 1 and 16. Therefore, this rejection should be withdrawn.

Claims 2-6, 11-15, 17-22 and 26 were rejected as claims 1 and 16 under 35 U.S.C. 102(b). Since claims 2-6, 11-15, 17-22 and 26 depend directly or indirectly from and contain all the limitations of claim 1 or 16, they are felt to overcome the 102 rejection in the same manner as claim 1 or 16.

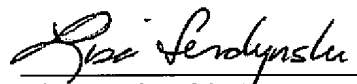
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Claims 7-10 and 23-25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yamane in view of Ekins (US 5,966,993). The combination of Yamane and Ekins fails teach or suggest a suspension adjustment actuator apparatus including an actuator assembly movable between first and second positions wherein a second suspension setting corresponding to the second position is adjustable independently or without affecting a first suspension setting corresponding to the first position as claimed in the present invention. Therefore, this rejection should be withdrawn.

This amendment is believed to be fully responsive to the comments and suggestions of the Examiner and to place this application in condition for allowance. Favorable action is requested.

Respectfully submitted,

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